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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,605	02/14/2006	Ulrich Rohs	ROHS ET AL - 20 PCT	1728
25889	7590	07/03/2008	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			PANG, ROGER L	
		ART UNIT	PAPER NUMBER	
		3681		
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		07/03/2008	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/529,605	ROHS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Roger L. Pang	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 May 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 69-204 is/are pending in the application.
- 4a) Of the above claim(s) 99-109, 134, 147-160, 166-178 and 180-204 is/are withdrawn from consideration.
- 5) Claim(s) 69-80, 90-94, 164-165 is/are allowed.
- 6) Claim(s) 81-89, 95-98, 110-133, 135-146, 161-163 and 179 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2-14-06</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

The following action is in response to the election filed for application 10/529,605 on May 2, 2008.

### ***Information Disclosure Statement***

The information disclosure statement filed 2-14-06 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but not all of the information referred to therein has not been considered.

Items AR and AS are not present in the application.

### ***Election/Restrictions***

Claims 99-109,134,147-160,166-178 and 180-204 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 2, 2008.

Please note: claims 171 and 176 were also withdrawn since they were dependent upon non-elected claims. Also, other dependent claims that were elected do not appear to be directed to the elected species (language confusing), but they were treated as best understood given the elected species.

Applicant argues that all of the species should be searched simultaneously because a search for the elected species would include a search for all of the disclosed species. This is

untrue, as the other species necessitate addition subclass searches and word searches. The elected species alone has already placed a great burden on the office. Applicant's arguments have been considered, but are not persuasive.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 81-89, 115-121, 124-133 and 162 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claims 81 and 82, "a spring element" has already been claimed. Applicant should reference previously claimed limitations with "said" or "the." Also, claims 81 and 82 are identical.

With regard to claim 83, the limitation of "the pressure device" lacks antecedent basis.

With regard to claim 85, "a pressure device" and "a spring element" have already been claimed.

With regard to claim 86, "a pressure device" has already been claimed.

With regard to claim 115, the limitation of "the continuously variable partial transmission" lacks antecedent basis.

With regard to claim 124, the limitations of "said two partial transmissions" lacks antecedent basis. Also, the limitation of "the following transmission path" lacks antecedent basis. The wording is also confusing as it is unclear what it is following or if further definition was supposed to be added at the end of the claim.

With regard to claim 125, the limitation of "te4h transmission path" lacks antecedent basis.

With regard to claim 126, the limitation of "the following transmission path" lacks antecedent basis. The wording is also confusing as it is unclear what it is following or if further definition was supposed to be added at the end of the claim.

With regard to claim 130, the limitation of "the continuously variable partial transmission" lacks antecedent basis.

With regard to claim 132, it is unclear what "wherein coaxially positioned drive and output" is trying to claim.

With regard to claim 162, any limitations following the word "particularly" is rendered indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

*Please Note: With regard to the rejections, for the sake of brevity, only the main limitations will be listed, as their respective functions and relationships to each other are the same as claimed.*

Claims 83-85 and 87-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmid '136.

- Transmission elements 1 and 2
- Coupling element 3
- Spring element 7
- Radial recesses (in between the turns of the spring)
- Bracing Bearing 31
- Torque Sensor 20
- pressure controlled by torque (Col. 9)
- connecting gap (Fig. 1)

Claims 83-86, and 162 are rejected under 35 U.S.C. 102(b) as being anticipated by Herscovici'157.

- Transmission elements 84,68
- Coupling Element 86
- Spring Element 94
- Radial Recesses (in between springs)
- Bracing Bearing 72
- Pressure Device (Fig. 6)
- Rolling Element 152
- Pressure Elements 150, 154
- Holding Device 98
- Position Sensor 206

Claims 95-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoeckicht '676.

- Cones a,b
- Coupling Element (Fig. 1)
- Gap (Fig. 1)
- Bracing device k,g
- Torque Sensor e

Art Unit: 3681

Claims 110-113 and 115-120 are rejected under 35 U.S.C. 102(b) as being anticipated by Haidegger '152.

- Input-Side divider 23,24
- Output-Side divider 25,30 (both a differential and planetary)
- CVT 5
- Input of CVT 20
- Output of CVT 26
- Input of Output-side divider 25
- Transmission elements 5
- Coupling element 6

Claims 110-121 are rejected under 35 U.S.C. 102(b) as being anticipated by Wedeniwski '820.

- Input-Side divider 25
- Output-Side divider 21 (both a differential and planetary)
- CVT 20
- Input of CVT 41a
- Output of CVT 47
- Transmission elements 40a, 40b (cones)
- Coupling element 50 (ring placed functionally in between the cones)

Claims 122 and 124 are rejected under 35 U.S.C. 102(b) as being anticipated by Bignon ‘693.

- Transmission elements 32,34
- Differential Gear Part 24 (Fig. 1)
- Drive of a path following the output 18

Claims 125-129 and 132-133 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyata ‘777.

- Transmission Elements 208
- Switching Gear Part 236
- Drive of a path following the output 241
- Switching Procedure (Abstract)
- Second Transmission Stage 221
- Third Transmission stage 2 (as best understood)
- Second Switching Gear Part 237 (as best understood)
- Coaxially positioned drive to output (Fig. 1, as best understood)
- Differential Gear Part 241
- Output of CT 232
- Coaxial output 242

Claims 125, 130, and 179 are rejected under 35 U.S.C. 102(b) as being anticipated by Nobumoto '011.

- Transmission Elements 148,149
- Switching Gear Part 2
- Pump Wheel 12
- Trilok converter 5
- Turbine Wheel 13
- Parallel transmission paths (Fig. 1)

Claims 135-144 are rejected under 35 U.S.C. 102(b) as being anticipated by Holliday '465.

- Transmission Elements 3 (cones)
- Coupling Element 1 (ring)
- Running Paths (col. 6)
- Grooves (Col. 6; Fig. 5)
- Textured Surfaces (Col. 6; Fig. 5)

Claims 161 and 163 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohs ‘131.

- Transmission Elements 3,4
- Coupling Element 5
- Holding Device (Fig. 1)
- Stationary Holding Device (wall)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 123 and 131 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bignon as applied to claim 122 above, and further in view of Stoeckicht.

Bignon teaches the transmission, but lacks the teaching of said CVT comprising of cones. Stoeckicht teaches a CVT comprising of cones a,b and a coupling member (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bignon to employ a cone CVT in view of Stoeckicht in order to provide a less complex transmission.

Claims 145-146 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holliday as applied to claim 144 above, and further in view of Rohs. Holliday teaches the transmission, but lacks the teaching of a liquid that wets the running surface of the transmission and coupling

elements. Rohs teaches of using a liquid to wet the transmission and coupling elements (Col.2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Holliday to employ a liquid in view of Rohs in order to increase the durability and service life of the transmission (Col. 2).

***Allowable Subject Matter***

Claims 69-80, 90-94 and 164-165 are allowed.

Claim 81 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miyata '283, Stoeckicht '664, Lauinger, Laird, Fairbanks and Overbay have been cited to show similar transmissions.

**FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete

Art Unit: 3681

list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the

Art Unit: 3681

processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roger L Pang/  
Primary Examiner, Art Unit 3681

Roger L Pang  
Primary Examiner  
Art Unit 3681

July 1, 2008